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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,441	01/04/2001	Shinji Yoshihara	39303.20219.00	3382
25224	7590	03/23/2005	EXAMINER	
MORRISON & FOERSTER, LLP 555 WEST FIFTH STREET SUITE 3500 LOS ANGELES, CA 90013-1024			NGUYEN, HAI V	
		ART UNIT	PAPER NUMBER	2142

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/754,441	YOSHIHARA ET AL.
	Examiner	Art Unit
	Hai V. Nguyen	2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 October 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the communication received on 08 October 2005.
2. Claims 1-25 are presented for examination.

Response to Arguments

3. Applicant's arguments received on 08 October 2004 have been fully considered but they are not deemed to be persuasive.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1, 9, 10, 11, 16, 17, 18, 24, and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 1, 9, 10, 11, 16, 17, 18, 24, and 25 recite the limitation "..., and an input section that can be operated to input **the composing data** while exchanging the messages with other information processing terminal, wherein the control station comprises a composing section that composes and edits **the music data** ..." in 1, 9, 10, 11, 16, 17, 18, 24, and 25. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. US patent no. 6,389,471 B1** in view of **Yen et al. US patent no. 6,724,918 B1**.

9. As to claim 1, Agraharam, Network Broadcasting System For Broadcasting Audiovisual Information To An Identified Audience, discloses a system for composing music data representative of a music composition according to composing data representative of a material of the music composition, the system comprising a plurality of information processing terminals and a control station for mutually connecting the plurality of the information processing terminals through the control station, wherein each information processing terminal comprises a conversation section that can be operated to exchange messages with other information processing terminal, and an input section that can be operated to input the composing data while exchanging the messages with other information processing terminal (*col. 2, line 21 – col. 3, line 20; col. 4, line 61 – col. 5, line 39; col. 8, lines 33-36*); However, Agraharam does not explicitly disclose wherein the control station comprises a composing section that composes and edits the music data according to the composing data inputted by the plurality of the information processing terminals to thereby collaborate the plurality of the information

processing terminals for creating the music composition. Thus, the artisan would have been motivated to look to the related networking art for potential system for implementing composing and editing the music data according to the composing data inputted by the plurality of the information processing terminals to thereby collaborate the plurality of the information processing terminals for creating the music composition.

In the same field of endeavor, Yen, related System And Method For Indexing, Accessing And Retrieving Audio/Video With Concurrent Sketch Activity, discloses, *"During the editing mode, the client can add sketch information to a retrieved document. At the same time, the client can record audio and/or video information to contribute to collaborative creation of a document...The invention provides the possibility to either broadcast the collaborative editing in a quasi real time mode respectively a streamed real time mode and/or an off-time mode (Yen, Abstract, col. 5, lines 30-52)".*

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention made to have incorporated Yen's teachings of the composing and editing the document with audio an/or video (Yen, Abstract, col. 5, lines 30-52) with the teachings of AgraHaram, for the purpose of *allowing a number of clients to freely document graphical information together with multi-media information like, for instance, audio and/or video information and allowing it to be accessed by a number of clients via the internet and/or internet related services like for instance emailing (Yen, col. 3, line 48 – col. 4, line 8)*. AgraHaram also suggests that a user, acting as session conductor, logs onto and operates the conductor terminal 101, as shown in Fig.4, to

access and edit multimedia information for a session using multimedia authoring tool

206 (Agraharam, col. 2, line 21 – col. 3, line 20).

1. As to claim 2, Agraharam-Yen discloses, wherein the control station further comprises a control section that exclusively controls the inputting of 'the composing data among the plurality of the information processing terminals such that only one information processing terminal is allowed to input the composing data at one time to avoid conflict of the composing data among the information processing terminals (*Agraharam, col. 4, line 49 – col. 5, line 39*).

10. As to claim 3, Agraharam-Yen discloses, wherein the control station further comprises a public storage section for storing the music data such as to make the music data available publicly (*Yen, col. 6, lines 8-19; Agraharam, col. 2, line 67 – col. 3, line 46*).

11. As to claim 4, Agraharam-Yen discloses, wherein the control station further comprises a feedback section that feeds back the edited music data to the plurality of the information processing terminals so that each information processing terminal can collaborate with other information processing terminal for creating the music composition by repetition of the transmitting of the composing data and the receiving of the music data (*Yen, col. 5, line 30 – col. 6, line 7; col. 9, line 31 – col. 10, line 28; Agraharam, col. 2, line 21 – col. 3, line 46; col. 4, line 57*).

12. As to claim 5, Agraharam-Yen discloses, wherein each information processing terminal further comprises a downloading section that downloads a program from the control station so as to install an interface by the downloaded program for transmitting

the composing data and receiving the music data (*Yen, col. 5, line 30 – col. 6, line 7; col. 9, line 31 – col. 10, line 28; Agraaharam, col. 2, line 21 – col. 3, line 46; col. 4, line 49 – col. 5, line 57*).

13. As to claim 6, Agraaharam-Yen discloses, wherein each information processing terminal further comprises an output section for displaying the received music data in the form of a score of the music composition, so that the input section can input the composing data in the form of music symbols superposed on the displayed score of the music composition (*Yen, col. 5, line 30 – col. 6, line 7; col. 9, line 31 – col. 10, line 28; Agraaharam, col. 2, line 21 – col. 3, line 46; col. 4, line 49 – col. 5, line 57*).

14. As to claim 7, Agraaharam-Yen discloses, wherein the information processing terminals include a child information processing terminal and a parent information processing terminal that has a higher capability of inputting the composing data than the capability of the child information processing terminal, thereby allowing the parent information processing terminal I/O to precede the child information processing terminal in the creation of the music composition (*Yen, col. 4, line 40 – col. 5, line 25; col. 5, line 30 – col. 6, line 7; col. 9, line 31 – col. 10, line 28; Agraaharam, col. 2, line 21 – col. 3, line 46; col. 4, line 49 – col. 5, line 57*).

15. As to claim 8, Agraaharam-Yen discloses, wherein only the parent information processing terminal can instruct the control station to register the music composition while the child information processing terminal is allowed to download the music data of the registered music composition from the control station (*Yen, col. 4, line 40 – col. 5,*

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line 25; col. 5, line 30 – col. 6, line 7; col. 9, line 31 – col. 10, line 28; Agraharam, col. 2, line 21 – col. 3, line 46; col. 4, line 49 – col. 5, line 57).

16. Claim 9 is corresponding method claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

17. Claim 10 is corresponding computer readable medium claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

18. Claim 11 is corresponding apparatus claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

19. Claims 12-15 are similar limitations of claims 2-5; therefore, they are rejected under the same rationale as in claims 2-5.

20. Claim 16 is corresponding method claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

21. Claim 17 is corresponding computer readable medium claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

22. Claim 18 is corresponding apparatus claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

23. Claims 19-23 are similar limitations of claims 4-8; therefore, they are rejected under the same rationale as in claims 4-8.

24. Claim 24 is corresponding method claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

25. Claim 25 is corresponding computer readable medium claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

Response to Arguments

26. Applicant's arguments received 08 October 2004 have been fully considered but they are not deemed to be persuasive.

27. In the remark, Applicant argued in substance that:

Point (A), the prior art does not disclose "the users inputting *music composing data*, and a control center that receives such music composing data and use it to compose a *music piece*" in 1, 9, 10, 11, 16, 17, 18, 24, and 25.

As to point (A), In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *music composing data*, a *music piece*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Point (B), there is no any suggestions or motivations to combine the prior art on page 3 in the Applicant's remarks.

As to point (B), In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

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In this instant application, "Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention made to have incorporated Yen's teachings of the composing and editing the document with audio an/or video (*Yen, Abstract, col. 5, lines 30-52*) with the teachings of Agraaharam, for the purpose of allowing a number of clients to freely document graphical information together with multi-media information like, for instance, audio and/or video information and allowing it to be accessed by a number of clients via the internet and/or internet related services like for instance emailing (*Yen, col. 3, line 48 – col. 4, line 8*). Agraaharam also suggests that a user, acting as session conductor, logs onto and operates the conductor terminal 101, as shown in Fig. 4, to access and edit multimedia information for a session using multimedia authoring tool 206 (*Agraaharam, col. 2, line 21 – col. 3, line 20*)."

28. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 571-272-3901. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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